

**REMARKS/DISCUSSION OF ISSUES**

Claims 1-8, 10-16 and 18-22 are pending in the application.

Reexamination and reconsideration are respectfully requested in view of the following Remarks.

**35 U.S.C. § 103**

The Office Action rejects claims 1-8, 10-16 and 18-22 under 35 U.S.C. § 103 over Burch et al. U.S. Patent Application Publication 2004/0203437 ("Burch") in view of Vandermeijden U.S. Patent 6,804,524 ("Vandermeijden").

Applicants respectfully traverse those rejections for at least the following reasons.

Burch only qualifies as prior art against the present patent application under 35 U.S.C. § 102(e).

35 U.S.C. § 103(c)(1) provides that:

*"Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person."*

Here, Burch and the present patent application were, at the time the claimed invention was made, owned by or subject to an obligation of assignment to Agilent Technologies, Inc. In this regard, Applicants note that Burch was actually assigned to Agilent Technologies, Inc. by virtue of an assignment recorded at Reel 013432 at Frame 0624, and the present application was actually assigned to Agilent Technologies, Inc. by virtue of an assignment recorded at Reel 014834 at Frame 0235.

Therefore, Applicants respectfully submit that Burch cannot be used against the present application under 35 U.S.C. § 103.

Accordingly, Applicants respectfully request that the rejections of claims 1-8, 10-16 and 18-22 be withdrawn.

### CONCLUSION

In view of the foregoing explanations, Applicants respectfully request that the Examiner reconsider and reexamine the present application, allow claims 1-8, 10-16 and 18-22 and pass the application to issue. In the event that there are any outstanding matters remaining in the present application, the Examiner is invited to contact Kenneth D. Springer (Reg. No. 39,843) at (571) 283.0720 to discuss these matters.

Respectfully submitted,

VOLENTINE & WHITT



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